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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jack L. Arbiser

Serial No.: 09/765,491

Art Unit: 1617

Filed: January 18, 2001

Examiner: Jennifer M. Kim

For: *CURCUMIN AND CURCUMINOID INHIBITION OF ANGIOGENESIS*Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

This is an appeal from the rejection of claims 4-6, 10-12, and 17-19 in the Office Action mailed March 31, 2005, in the above-identified patent application. A Notice of Appeal was filed on August 30, 2005 along with a two month extension of time. **A RESPONSE TO THE FINAL REJECTION, WHICH INCLUDED A NUMBER OF THE REFERENCES ATTACHED IN THE APPENDIX AS EVIDENCE, WAS FILED OCTOBER 28, 2005. IT DOES NOT APPEAR THIS RESPONSE HAS BEEN CONSIDERED BY THE EXAMINER.**

The Commissioner is hereby authorized to charge \$250.00, the fee for the filing of this Appeal Brief for a small entity, to Deposit Account No. 50-3129. It is believed that no

PTO/BB/17 (01-06)

Approved for use through 07/31/2008. OMB 0651-0032
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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4618).

FEE TRANSMITTAL
For FY 2006☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 0.00

Complete if Known

| | |
|----------------------|------------------|
| Application Number | 09/765,491 |
| Filing Date | January 18, 2001 |
| First Named Inventor | Jack L. Arbiser |
| Examiner Name | Jennifer M. Kim |
| Art Unit | 1617 |
| Attorney Docket No. | EU 98055 CON |

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CENTRAL FAX CENTER**MAR 01 2006****METHOD OF PAYMENT (check all that apply)**

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FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES | | SEARCH FEES | | EXAMINATION FEES | | Fees Paid (\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
| | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | |
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | |
| Design | 200 | 100 | 100 | 50 | 130 | 65 | |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | |

2. EXCESS CLAIM FEES

| Fee Description | Fee (\$) | Small Entity Fee (\$) |
|--|----------------------------------|-----------------------|
| Each claim over 20 (including Reissues) | 50 | 25 |
| Each independent claim over 3 (including Reissues) | 200 | 100 |
| Multiple dependent claims | 360 | 180 |
| Total Claims | Extra Claims | Fee (\$) |
| - 20 or HP = _____ x _____ = _____ | | |
| HP = highest number of total claims paid for, if greater than 20. | | |
| Indep. Claims | Extra Claims | Fee (\$) |
| - 3 or HP = _____ x _____ = _____ | | |
| HP = highest number of independent claims paid for, if greater than 3. | | |
| | Multiple Dependent Claims | Fee (\$) |
| | Fee (\$) | Fee Paid (\$) |

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(e).

| | | | | |
|---------------|--------------|--|----------|---------------|
| Total Sheets | Extra Sheets | Number of each additional 50 or fraction thereof | Fee (\$) | Fee Paid (\$) |
| - 100 = _____ | / 50 = _____ | (round up to a whole number) x _____ | | |

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): _____

SUBMITTED BY

| | | |
|-----------------------------------|-------------------------|------------------------|
| Signature | Registration No. 31,284 | Telephone 404-879-2151 |
| Name (Print/Type) Patrea L. Pabst | (Attorney/Agent) | Date March 1, 2006 |

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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EU 98055 CON 077113/4


U.S.S.N. 09/765,491
Filed: January 18, 2001
APPEAL BRIEF

dystrophic epidermolysis bullosa. Nothing the examiner cites lead one of ordinary skill in the art to expect curcumin to treat both mechanisms, therefore there would be no expectation of success. One would instead believe that TNP-470, which is administered systemically, not curcumin, administered as an ointment, would be effective. Aggarwal, discussed above, does not make up for this deficiency.

(8) SUMMARY AND CONCLUSION

In summary, the claims are definite, novel and not obvious over the prior art.

Respectfully submitted,



Patrea L. Pabst
Reg. No. 21,284

Date: November 30, 2005
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